S.B. Civil Misc. Appeal No.898/2005

Gajendra and others.
vs.
Dr. Bhanwar Lal and others.

Date : 17.8.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. NR Choudhary, for the appellants.
Mr. SD Vyas, for the respondents.

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Heard learned counsel for the parties.

The appellant has challenged the order of the trial court dated 11.3.2005 by which the trial court bound down the parties to maintain status quo with respect to the property in dispute mentioned in para no.4 of the application and further restrained from alienating the property.

Learned counsel for the appellants vehemently submitted that the plaintiff himself admitted the partition in registered document and he sold the property and in that situation, the trial court should not have granted injunction in favour of the plaintiff restraining the true owner from enjoying the property. Learned counsel for the petitioner further submits that even some of the necessary parties have not been impleaded in the suit.

I have considered the submissions of learned counsel for the appellants and perused the reasons given by the court below.

It is not in dispute that the interim order was passed as back as on 11.3.2005 and that too for maintaining status quo with respect to the property in dispute and not to alienate the property during pendency of the suit and the evidence of the plaintiff is going on. In view of the above, without entering into the merits of the case, it will be proper to direct the trial court to decide the suit expeditiously.

Consequently, this appeal is disposed of with a direction to the trial court to decide the suit expeditiously as early as possible preferably within a period of one year from the date of receipt of the record by the trial court. Record be sent to the court below forthwith.

(PRAKASH TATIA), J.

S.Phophaliya